

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:21-cr-0020
)	
CARLOS DE LA ROSA, RAFAEL MARTINEZ,)	
ELVIS MANUEL RODRIGUEZ, AND ALEXIS)	
SANCHEZ GARCIA,)	
)	
Defendants.)	
)	

ORDER

BEFORE THE COURT is the joint motion of the United States, Defendant Rafael Martinez, Defendant Elvis Manuel Rodriguez, and Defendant Alexis Sanchez Garcia to continue the jury selection and trial in this matter, currently scheduled for August 22, 2022. (ECF No. 65.) Also before the Court is Defendant Martinez's motion to continue. (ECF No. 62.) For the reasons stated herein, the Court will grant these motions. The time to try this case is extended up to and including September 26, 2022.

On August 15, 2022, the United States filed the instant joint motion to continue. The United States avers that, although plea agreements have been extended to all defendants, defendants have not been able to meet with their counsel due to the quarantine protocols associated with an ongoing COVID-19 outbreak at MDC Guaynabo. (ECF No. 65 at 1.) The United States avers that they are confident that the matter can be resolved short of trial once counsel regains access to their clients. *Id.* at 2. Pursuant to LRCi 5.4(h)(3), the United States consulted with Defendants Martinez, Rodriguez, and Garcia who "requested to join in the motion to continue and further consented to said motion being filed on their behalf." *Id.*

Defendant Martinez filed his motion to continue on August 4, 2022, in which he asserts that he had not been able to meet with counsel due to the ongoing COVID-19 outbreak at MDC Guaynabo. (ECF No. 62 at 1.) Defendant Martinez similarly request a continuance of at least thirty days to meet with counsel, discuss plea negotiations, and prepare for trial. *Id.* at 1. The United States and Defendant Carlos De La Rosa filed notices of no objection to

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Defendant Martinez' motion to continue on August 5, 2022, and August 12, 2022, respectively. (ECF Nos. 63 and 64.)¹

While the Speedy Trial Act requires that defendants be tried within seventy days of indictment, the Court specifically finds that extending this period would be in the best interest of justice. Here, an extension is necessary in order to allow defendants to meet with counsel, and to allow defendants to participate in plea negotiations with the United States.

Consistent with this concern, the United States Court of Appeals for the Third Circuit has recognized that "whether or not a case is 'unusual' or 'complex,' an 'ends of justice' continuance may in appropriate circumstances be granted." *United States v. Fields*, 39 F.3d 439, 444 (3d Cir. 1994) (finding that the district court had properly granted an "ends of justice" continuance to "permit plea negotiations to continue"); cf. *United States v. Dotta*, 33 F.3d 1179 (9th Cir. 1994) ("An ends of justice continuance may be justified on grounds that one side needs more time to prepare for trial [even if the] case [i]s not 'complex.'"); *United States v. Lattany*, 982 F.2d 866, 883 (3d Cir. 1992) ("[T]he district court did not abuse its discretion when it delayed the trial to give counsel . . . opportunity to . . . decid[e] upon and prepar[e] an appropriate defense."); *see also* 18 U.S.C. § 3161(h)(7)(B)(iv) (when performing an "ends of justice" analysis, courts should consider "[w]hether the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation . . .").

The premises considered, it is hereby

ORDERED that United States' Joint Motion to Continue August 22, 2022 Jury Trial, ECF No. 65, is **GRANTED**; it is further

ORDERED that Defendant Martinez's motion to continue, ECF No. 62, is **GRANTED**; it is further

¹ Defendant Martinez's motion states that counsel for Defendant Garcia objected to the continuance. (ECF No. 62 at 2.) Based on Defendant Garcia's request to join the United States' motion to continue filed on August 15, 2022, the Court will disregard that objection.

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ORDERED that the time beginning from the date of this order granting an extension through September 26, 2022, **SHALL** be excluded in computing the time within which the trial in this matter must be initiated pursuant to 18 U.S.C. § 3161; it is further

ORDERED that the parties **SHALL** file and serve a pre-trial brief no later than September 19, 2022, which shall include the following: (a) proposed list of witnesses; (b) proposed list of exhibits; (c) estimated length of case-in-chief and case-in-defense; (d) proposed non-standard *voir dire* questions; and (e) proposed non-standard jury instructions related to the elements of the charges and defenses; it is further

ORDERED that the parties **SHALL** provide the Clerk of Court with a USB Flash Drive containing electronic versions of exhibits no later than September 21, 2022;² and it is further

ORDERED that the Jury Selection and Trial previously scheduled for August 22, 2022, is hereby **CONTINUED** to commence promptly at 9:00 a.m. on September 26, 2022, in St. Thomas Courtroom 1.

Dated: August 16, 2022

/s/Robert A. Molloy
ROBERT A. MOLLOY
Chief Judge

² Counsel are advised to consult with Court technical staff to determine the proper format for saving electronic versions of exhibits. The Government's trial exhibits shall be labelled sequentially beginning with Government's Exhibit 1. Defense exhibits shall be labelled sequentially beginning with Defense Exhibit A.